

# Her Day in COURT

The lead plaintiff in the most critical abortion rights decision in a generation, **Amy Hagstrom Miller '89** brought her case all the way to the Supreme Court—and won

BY LAURA BILLINGS COLEMAN

Few people have studied the optics of abortion as closely as Amy Hagstrom Miller '89, which is why she put on a bright purple suit the day her case went to the Supreme Court.

“When I’ve shown up to testify at the Texas legislature wearing pearls, people will do double-takes because I’m not what they’re expecting,” says Hagstrom Miller, the founder and CEO of Whole Woman’s Health, a national network of independent clinics in Texas, Minnesota, and three other states. With her friendly laugh, fringed bob, and what *Mother Jones* recently described as her “energized Patricia Arquette” demeanor, she says, “I want to shift the image associated with being an abortion provider.”

The lead plaintiff in *Whole Woman’s Health vs. Hellerstedt*, Hagstrom Miller and the *pro bono* legal team from the D.C.-based Center for Reproductive Rights arrived at the nation’s highest court on a Wednesday morning last March to challenge HB2, a 2013 Texas law mandating that physicians providing abortion services have admitting privileges at local hospitals, while requiring abortion clinics to meet the hospital-level standards of an ambulatory surgical center.

HB2 is what critics call a “TRAP” law—*targeted regulation of abortion providers*—one of 288 such laws passed by state legislatures since 2010. During the three years it took for *Whole Woman’s Health vs. Hellerstedt* to reach the highest court, more than half of that state’s abortion providers had closed their doors—including two clinics owned by Whole Woman’s Health.

“I knew what was happening in Texas wasn’t going to stay in Texas,” Hagstrom Miller says. Though her team had won a temporary injunction against the most onerous provisions of HB2, she says, taking her place in the public gallery that morning, “I really had to detach myself from the outcome of winning.”

But that began to change very soon in the oral arguments, when Justice Elena Kagan wondered why a law intended to raise the standard of care for women had effectively prevented them from accessing their legal right to abortion services: “*It’s almost like the perfect controlled experiment as to the effect of the law isn’t it? It’s like you put the law into effect, 12 clinics closed. You take the law out of effect, they reopen.*”

Soon after, Justice Stephen Breyer asked the Texas solicitor if he could point to a single woman who’d benefited from new restric-

tions—requirements that aren’t the rule for other routine health procedures. The Texas solicitor said no.

“That was when I realized we might win,” Hagstrom Miller remembers. “I knew our case chapter and verse, but to hear these brilliant legal minds hold people’s feet to the fire was just incredible.” As she left the chamber that day with Nancy Northrup, president and CEO of the Center for Reproductive Rights, nearly 3,000 supporters—many also dressed in purple—cheered from below. “We were stepping into this moment that was profound and so much bigger than me,” she says. “And my other thought was, ‘Oh my god, I have to walk down all of these steps without falling.’”

\* \* \*

Seeing his wife take center stage in a history-making women’s rights case has been thrilling, challenging, and “also just super tiring,” admits **Karl Hagstrom Miller '90**, an associate professor at the University of Virginia’s McIntire Department of Music. “We’ve learned so much about how political organizing works, how our legal system works, that we can’t see the world in the same way as we did before,” he says. “Being in the middle of such a momentous series of events—it’s like we’ve received a graduate degree in the inner workings of politics and the law.”

Over the past three years, Hagstrom Miller handed over more than 10,000 emails and seven years of clinic documents, laying bare the business model of independent community clinics like hers, which provide nearly 80 percent of abortion procedures in this country. The Whole Woman’s Health staff chose to be equally transparent with the media, allowing documentary filmmaker Dawn Porter to follow patients and providers on the front lines of the Texas fight in *Trapped*, a film that debuted at the 2016 Sundance Film Festival, where it won the Special Jury Award for Social Impact Filmmaking. Hagstrom Miller herself agreed to hundreds of interview requests from outlets as varied as *Rolling Stone* and *Refinery 29*, even changing out of her Halloween costume just before trick-or-treating with Karl and her two boys, then 8 and 10, to talk live with MSNBC’s Rachel Maddow.

Yet as her profile rose, and supporters began mobilizing national support behind her Supreme Court case, Hagstrom Miller had to make hard decisions about which battles she couldn’t win. Forced to close

Amy Hagstrom-Miller '89 and Nancy Northrup of the Center for Reproductive Rights in front of the Supreme Court building last summer.



PHOTO: COURTESY OF LORIE SHAULL

clinics in Austin and Beaumont, laying off loyal staff and physicians, Hagstrom Miller took on so much debt during her legal fight that one of her sons offered her the \$5 he'd saved just to keep her clinics open.

"Our boys have had an education in the past three years about sacrifice, about political engagement, and about doing the right thing that I think is going to be foundational for them," says Karl Hagstrom Miller. "But there was never a time when she said this is too much, I'm going to let someone else do this. That's just not in her vocabulary."

\* \* \*

Amy and Karl Hagstrom Miller met at Macalester, on a J-term trip to Nicaragua, and married in 1992. Karl (whose parents, **Barbara Lindquist Miller '60** and **Kent Miller '61**, also met at Macalester) came to Macalester as a mid-year transfer from Boston's Berklee College of Music to study history and music. Amy grew up in nearby Stillwater, the youngest of five siblings raised in "one of those Scandinavian peace-and-justice Christian families." A religious studies major, she widened her focus to include international studies and women's studies after a formative study abroad experience in India.

"Living in a culture where women don't have any status was transformational for me," says Amy, a competitive swimmer and Nordic skier who credits Title IX for "saving me from the self-esteem spiral I might have experienced as a young person." Returning to campus her senior year, she and other Women's Collective members orga-

nized Macalester students to join the 1989 National Organization of Women-led abortion rights march on Washington with money raised from "feminist bake sales" and performances by Karl's band, Toe Jam.

At the time, abortion providers were embattled by a surge of clinic protests and escalating violence, a trend that Amy found deeply troubling. "The Jesus that I was taught about would be holding the hands of women inside the clinic," she says. "He wouldn't be screaming at them." So after graduating with the S.W. Hunter Prize for commitment to peace and justice, she walked into the Planned Parenthood in St. Paul's Highland Park and asked for a job.

She learned the work from the ground up, answering phones, counseling patients, and eventually following a physician provider into private practice, work she continued when the couple moved to New York, where Karl attended graduate school at New York University. "I found unplanned pregnancy as a way to engage around a huge number of issues that really center on the status of women and human rights in our culture," she says. "Women end up grappling with some really big issues that are sort of a barometer for our society—identity, stigma, self-esteem, sexuality, family, spirituality, religion."

Serving patients in Minnesota, she found that an open-ended question like "How did you come to find yourself here today?" could elicit tears and self-recrimination from patients who were taught that "good women" don't seek abortions. But in New York City, Amy found that the multi-cultural climate and long history of abortion access in



PHOTO: PETE MAROVICH/GETTY IMAGES

**Amy Hagstrom-Miller '89 (in purple blouse) and Nancy Northrup, president of the Center for Reproductive Rights, wave to supporters as they descend the steps of the U.S. Supreme Court in Washington, D.C., on June 27, 2016, after winning a decisive abortion rights case.**

the state made for a different counseling experience. “I remember asking a patient in the Bronx, ‘How did you come to find yourself here?’ and she’s like, ‘I took the A train.’” That experience taught her an important lesson, she says: “Stigma is manufactured.”

\* \* \*

By 2003 Hagstrom Miller saw her chance to challenge some of that stigma head-on, by acquiring the independent practice of a retiring provider in Austin, and Karl joined the faculty at the University of Texas. Though abortion has been legal since 1973, nearly 90 percent of U.S. counties have no provider, a trend that troubles many *Roe*-era doctors concerned they can’t retire without ending access to care in their communities. “I’ve become that next generation person you can call when you’re ready to retire,” Hagstrom Miller says about the Whole Woman’s Health business model, which has acquired a dozen such clinics from retiring providers over the last decade.

When she takes over a clinic, Hagstrom Miller typically updates facilities with new equipment, patient rooms named for inspiring women (Rosa Parks, Rachel Carson, Rosie the Riveter), and inspirational quotations on the wall. (“No one can make you feel inferior without your consent.”—Eleanor Roosevelt) She also tries to remake the patient experience, with on-site counseling, cozy fleece blankets

and tea, and a culture of open conversation that acknowledges the basic facts about abortion in America: One in three women will have an abortion during their child-bearing years. Nearly 60 percent of women seeking abortion are already mothers. Nearly half live below the federal poverty line. As her website bio explains, “No one gets pregnant hoping to have an abortion.” Even so, she’s committed to providing “fabulous abortion care.” A recent *Mashable* report from a Whole Woman’s Health site called it “The Abortion Clinic Where No One Whispers.”

That matter-of-fact messaging has sometimes unsettled others in the pro-choice movement. “There’s a tradition of people using a lot of euphemisms about family planning or reproductive health care to downplay the importance of abortion, but that’s not something I’ve ever wanted to do,” Hagstrom Miller says. “I don’t scream and yell, but I’m not going to further stigmatize abortion in the way I talk about it.”

As Texas lawmakers began passing the state’s first round of TRAP laws in the early 2000s, Hagstrom Miller became a frequent presence at the Texas State Capitol, enduring hostility and harassment from anti-abortion groups and hand-wringing from pro-choice lobbyists who wanted to review her talking points. “They worried I wasn’t strategic or I’d be too abortion-forward, so coming to the Capitol was not a friendly or comfortable place,” she says. “I was getting it from both sides.”



“

I found *unplanned pregnancy* as a way to engage around a huge number of issues that really center around the status of women and human rights in our culture, she says. Women end up grappling with some really big issues that are sort of a barometer for our society—identity, stigma, self-esteem, sexuality, family, spirituality, religion. ”

”

But that began to change in the legislative session of 2013, as Texas lawmakers geared up to pass HB2. “We knew it was going to be the worst session yet,” she says, but in a state with historically low voter turnout, “I wanted to find a way to make activism super easy for people.” Whole Woman’s Health and its allies printed up a few hundred bright orange T-shirts emblazoned with “My Family Values Women” and “I Stand with Texas Women.” The T-shirts turned into a powerful visual later in the session when more than 700 Texans lined up to testify about the proposed legislation, a “people’s filibuster” that preceded Sen. Wendy Davis’s historic stand against the bill.

“No one was telling anyone how to do it, or what to say, but person after person stood up and told their own abortion story or told the story about why abortion mattered to someone they loved,” Hagstrom Miller says. “So at the same time the worst law in the country was going to be passed—and you knew it was—you watched the stigma of abortion just melting off people. It was a huge victory in this long arc of culture change.”

\* \* \*

The People’s Filibuster was a pivotal moment in the fight against TRAP laws, but the most important victory came on June 27, 2016, when the Supreme Court ruled 5-3 in favor of Whole Woman’s Health, overturning the state’s burdensome abortion restrictions. That day, Hagstrom Miller chose a white pantsuit and a purple blouse to make her public remarks about standing on “the right side of history.”

“After such a tough year, with the clinic shooting in Colorado, that decision was really a source of joy,” says **Curtiss Hannum ’97**, one of several Mac alumni in the reproductive justice movement who have paid close attention to the case. The vice president of programming and center affairs at The Women’s Centers, a group of independent East Coast abortion care providers, Hannum says the Supreme Court ruling “really affirmed all that we know to be true, which is that these regulations are about politics and not about patient care.”

“There’s been a campaign of terror against people having or providing abortions,” says **Dr. Jill Meadows ’91**, Medical Director of Iowa’s Planned Parenthood of the Heartland and a board member of the national nonprofit Physicians for Reproductive Health. The 45 amicus briefs filed in support of Whole Woman’s Health, including hundreds of first-person stories from women who have sought abortions, have had a powerful effect, says Meadows. “All these affidavits from women talking about their experiences made clear that abortion is normal, and I think it can help shift the cultural needle.”

The *Whole Woman’s Health* ruling has already forced 10 states to drop similar TRAP legislation, including Wisconsin, where **Doug Laube ’66**, retired chair of the University of Wisconsin’s Department of Obstetrics and Gynecology, had been expecting to testify. “It’s been quite a turning point,” says Laube. “And it’s already affected us favorably.” Attorney **Katherine Barrett Wiik ’00**, board chair of Minneapolis-based ProChoice Resources, says, “I think it is and will be a tremendously impactful legal decision, but building back the access that was lost is going to take a lot of time and hard work.”

That’s the landscape that Hagstrom Miller is confronting today, as Whole Woman’s Health and its allies attempt to rebuild the health care access that Texas women lost during HB2. According to the Texas Policy Evaluation Project, an estimated 100,000 to 240,000 Texas women between the ages of 18 and 49 have tried to end a pregnancy by themselves. Another report, released in the September 2016 issue of *Obstetrics and Gynecology*, found that the rate of women who died from complications related to pregnancy in Texas doubled from 2010 to 2014, the worst maternal mortality rate of any state, unmatched in the rest of the developed world.

Hagstrom Miller has seen these trends firsthand, recalling the day she had to close her clinic in McAllen, Texas, because of HB2 restrictions. “There was a woman there who told my vice president, ‘I can’t travel to San Antonio. I’m a working mom, I have three children, two jobs, so I’m going to tell you what’s in my medicine cabinet and what’s under my sink, and can you tell me how to do my own abortion?’ We have many stories like that.

“People say your case is going to be talked about it in history books—but that’s too abstract,” she says. “This win came at a real cost.”

Now mentioned in the same breath with other kick-ass Texas women such as Molly Ivins and Ann Richards, Hagstrom Miller has been encouraged to run for political office or bring her voice to another national platform. But for now, she’s concentrating on projects closer to home: supporting staff to take vacation time, building a new fence at the Fort Worth clinic, and shoring up Shift, an Austin nonprofit she launched to start a national conversation about abortion stigma.

“Figuring out what’s next is actually a pretty important decision,” Hagstrom Miller says, but she doesn’t see herself moving too far away from providing direct care to women. “To have my foot in the door of this meaningful interaction...this is what I’m called to do.” **M**

**LAURA BILLINGS COLEMAN** is a frequent contributor to Macalester Today.